IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: DIET DRUGS (PHENTERMINE/ FENFLURAMINE/DEXFENFLURAMINE) PRODUCTS LIABILITY LITIGATION	: : : : :	**MDL DOCKET NO. 1203**

MEMORANDUM AND PRETRIAL ORDER NO. 1962

FINAL PRETRIAL ORDER OF THE TRANSFEREE COURT REGARDING CASES READY FOR REMAND[1]

BECHTLE, J. MAY 9, 2001

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[1] At such time that a civil action is ordered to be remanded to the transferor court by the Judicial Panel on Multidistrict Litigation, either by a lifting of the stay of the Conditional Transfer Order or otherwise, the Clerk of this court shall designate this Order and any supplements thereto as part of the record to be remanded.

I. INTRODUCTION

Prior to September 15, 1997, American Home Products Corporation ("AHP") marketed and sold two prescription drugs for weight loss in the United States under the brand names Pondimin (fenfluramine)[2] and Redux (dexfenfluramine)[3] (hereinafter referred to as the "diet drugs"). Beginning in 1992, physicians commonly prescribed Pondimin alone or in combination with phentermine, another prescription diet drug. Phentermine was, and still is, manufactured by various entities and is distributed and sold under several different brand names. The combination of Pondimin with phentermine was often referred to as "Fen-Phen." Redux was prescribed as a monotherapy because it did not cause the same adverse side effects as Pondimin.

Beginning some time prior to 1997, individuals who ingested the diet drugs, alone or in combination with phentermine, filed lawsuits and class actions in federal and state courts against AHP and other defendants, including manufacturers, distributors,

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[2] Originally, Les Laboratoires Servier ("Servier") held the international patent rights to fenfluramine. In 1963, one of Servier's affiliates granted A.H. Robins, Inc. ("A.H. Robins") an exlcusive license to make, use and sell fenfluramine in the United States. AHP later acquired A.H. Robins and, thereafter, marketed and sold fenfluramine in the United States under the brand name Pondimin.

[3] Servier also held the international patent rights to dexfenfluramine. In 1990, Servier and Interneuron Pharmaceuticals, Inc. ("Interneuron") entered into a Patent and Know-How License Agreement to manufacture, use and sell dexfenfluramine in the United States. In November 1992, Interneuron sublicensed its patent rights for dexfenfluramine to American Cyanamid Company, which was acquired by AHP in 1994. After the FDA approved dexfenfluramine, AHP marketed and sold it in the United States under the brand name Redux.

weight-loss clinics, pharmacies and physicians. Plaintiffs asserted various claims, including traditional personal injury products liability claims under state common law, such as design defect, manufacturing defect, failure to warn, breach of warranties and misrepresentation. Plaintiffs also asserted some less-than-traditional claims under consumer-based state laws and statutes. The relief sought by plaintiffs included monetary damages, medical screening services, and refunds for purchasing the diet drugs.

On December 10, 1997, the Judicial Panel on Multidistrict Litigation (the "Panel") designated this court as the transferee court for IN RE: DIET DRUGS (PHENTERMINE/FENFLURAMINE/ DEXFENFLURAMINE)PRODUCTS LIABILITY LITIGATION, MDL NO. 1203 ("MDL 1203"). As of December 1999, approximately 18,010 users had filed lawsuits against AHP and the other defendants. At present, approximately 3,000 civil actions have been transferred to this District for coordinated and consolidated pretrial proceedings. A considerable number of parallel state proceedings are pending and continue to be filed and administered by state courts throughout the country.

It is apparent that some of the legal issues present in this litigation are case-specific to individual plaintiffs' cases, fact-intensive and subject to peculiarities of state law. The court has endeavored to resolve all common questions whenever possible. These efforts, supported by the assistance of the

court-appointed Special Discovery Master and the parties, including court appointed plaintiff and defendant liaison counsel, resulted in final rulings regarding nearly all motions pertaining to pleading and discovery. In summary, this court has ruled upon a number of case-wide issues on topics ranging from service of process, discovery, procedure, expert testimony,[4] class certification, joinder, sufficiency of pleadings and remand to state court. As for substantive subjects, the court has ruled upon issues relating to, inter alia, jurisdiction, standing, pre-emption and requests for judgment as a matter of law.

Because the court addressed substantially all such case-wide issues amenable to resolution in this transferee court, and because all common fact and expert discovery is substantially complete, the court concludes that many civil actions pending in MDL 1203 are now eligible for remand to the transferor courts for final disposition. By this Final Pretrial Order, the court initiates an ongoing remand program to foster prompt adjudication of cases transferred here by the Panel that have completed the pretrial process.

[4] See infra III.C. (discussing scope of court's consideration of expert testimony and challenges thereto).

II. ADMINISTRATION OF THE CASE

A. Plaintiffs' Management Committee

Shortly after the transfer of cases to MDL 1203, the court established the Plaintiffs' Management Committee ("PMC") to coordinate discovery and other activities. As part of its duties and responsibilities, the PMC assisted and continues to assist all plaintiffs in MDL 1203 and state-federal coordinated proceedings by appearing frequently before this court, attending regular status conferences held by the Special Discovery Master, preparing motions and responses regarding case-wide discovery matters and pretrial preparation, and maintaining a document depository for all documents produced in MDL 1203. See Pretrial Order No. 6 (entered Feb. 5, 1998). Further, the PMC coordinated and completed numerous depositions of defendants' corporate representatives, employees and generic experts.

In order to provide for costs and attorneys' fees that the PMC may be entitled to receive for providing these case-wide services over the last several years, the court provided for sequestration of nine percent (9%) of all payments made by defendants in settlements or satisfactions of judgments of cases transfered to MDL 1203, to be placed in the "MDL-1203 PMC Cost and Fee Account."[5] (Pretrial Orders Nos. 467 & 517.) The set-

[5] Similarly, in those states where the PMC has coordination agreements with certain plaintiffs' firms, the court provided for sequestration of six percent (6%) of all payments made by defendants in settlements or satisfactions of judgments.

aside Orders also permit attorneys assigned to various committees who assisted the PMC with discovery at different locations across the country to apply to the court for participation in the fund as Common Benefit Attorneys. The fund will provide payment to PMC members and Common Benefit Attorneys for the PMC's work product to the extent that the court ultimately determines that the service was authorized, necessary and beneficial, and that the attorney provided competent legal assistance and representation in securing a particular plaintiff's recovery.

The set-aside requirement applies to all MDL 1203 payments made by defendants to plaintiffs regardless of whether a plaintiff's case is disposed of while on the MDL 1203 docket or following remand to the transferor trial court. Id. Payments to the PMC or the Common Benefit Attorneys through the set-aside procedure do not diminish a plaintiff's recovery because such payments are deducted from the share to which each plaintiff's private counsel is entitled under his or her arrangement with the client.

B. Defense Liaison Counsel

At various times during the litigation, the court appointed separate defense liaison counsel to represent certain groups of defendants. See, e.g., Pretrial Orders Nos. 5, 126, 127, 128, 477 & 1412 (appointing defense liaison counsel for phentermine manufacturers and suppliers, fenfluramine and dexfenfluramine manufacturers, drug retailers, diet centers and physicians).

Liaison counsel's objective was to convey information to classes of defendants with common defense circumstances. These classes included weight-loss centers, doctors, pharmacies, wholesalers, manufacturers, etc.

C. Special Discovery Master

On April 14, 1998, the court formally appointed Gregory P. Miller, Esquire, as Special Discovery Master and vested him with the powers enumerated in Federal Rule of Civil Procedure 53(c) and (d) for the purposes of administering a discovery schedule, mediating discovery disputes and, if necessary, rendering reports and recommendations to the court as to any disputed discovery-related matter. (Pretrial Order No. 36.) In addition to convening general status conferences, Mr. Miller has held numerous conferences pertaining to discovery disputes in individual plaintiffs' cases. Mr. Miller has filed 86 Decisions and Recommendations to date for the court's consideration, including several decisions pertaining to voluntary dismissals by plaintiffs of certain defendants or cases in their entirety and the dismissal of defendants for lack of product identification. At times, Mr. Miller also filed Special Discovery Master Memoranda to provide guidance to parties in MDL 1203 about the discovery procedures adopted by this court.

III. DISCOVERY

A. Pretrial Orders

Shortly after commencing this case in December 1997, the court began issuing Pretrial Orders and numbering them consecutively. The overwhelming majority of Pretrial Orders are case-specific.

In early 1998, the court established certain requirements for conducting discovery in MDL 1203. In Pretrial Order No. 20, the court ordered the preservation of documents. The court set forth deposition guidelines in Pretrial Order No. 21. To initiate discovery, the court entered Pretrial Order No. 22, requiring plaintiffs to complete and provide defendants with a Fact Sheet, executed Medical Authorizations and a List of Medical Providers.[6] Pursuant to Pretrial Order No. 6, the PMC created a document depository in Philadelphia. The depository contains in excess of 6,000,000 documents produced by both plaintiffs and defendants in MDL 1203 and is available to the transferor courts following remand.

In order to facilitate access to court documents and MDL 1203 docket information, the court established a website on July 10, 1998, and issued certain procedures to be utilized in accessing that website. (Pretrial Orders Nos. 172 & 173.) Those procedures were amended on September 19, 1998 in Pretrial Order

[6] Initially, plaintiffs had forty-five (45) days to complete this discovery. The court shortened this deadline to thirty (30) days in Pretrial Order No. 1530.

No. 309. All of the court's Pretrial Orders and Special Discovery Master Decisions and Recommendations and Memoranda are available on the website to all persons interested in the litigation. The website can be visited by accessing www.fenphen.verilaw.com.

B. Fact and Expert Discovery

1. Status of Discovery at the Time of Remand

Upon arrival in the transferee court, each case is assigned a Discovery Initiation Date ("DID") that determines the schedule for completing both fact and expert discovery. Several Pretrial Orders address the discovery requirements in MDL 1203. See, e.g., Pretrial Orders Nos. 22, 292, 417, 418, 807, 992 & 1467 (setting forth discovery requirements and schedules). There were some adjustments to the discovery schedule over time as circumstances changed, but essentially it requires that upon transfer, a party must promptly complete a sequential series of discovery steps resulting in the completion of all written and deposition discovery. See Pretrial Orders Nos. 992 & 1467 (containing discovery calendars).

Expert discovery was divided into two main segments. One segment involved generic experts. Generic experts are persons who would testify for a party regarding general causation issues of widespread applicability. See Special Disc. Master Mem. No. 30 (defining "generic expert"). Their opinions pertain to the history, science and other issues of causation relating to the

use of diet drugs. Both the PMC and defendants designated generic experts that all parties may rely upon in developing the theories of their cases or defenses.[7] The parties generally designated experts to provide opinions in the several different areas of expertise, including cardiology, epidemiology, etc. The parties can be expected to call generic experts to testify in every case. Consequently, it is likely that in all or nearly all cases, deposition and/or videotaped deposition will be provided at trial.

The second segment concerned case-specific experts who intended to offer expert opinions about a particular plaintiff's medical condition or case. See Special Disc. Master Mem. No. 30 (defining "case-specific expert"). Such experts were generally expected to be familiar with a particular plaintiff's medical history, either because they were independent experts retained by the parties for litigation, or because they qualified as treating physicians or other medical care providers possessing familiarity with that plaintiff's precise claim. See Pretrial Order No. 1162 (requiring plaintiffs to provide Fed. R. Civ. P. 26(a)(2) disclosures for all case-specific experts, including treating physicians who will render opinion testimony regarding

[7] The parties informed the court that they will soon submit the generic stipulated record for approval. Although plaintiffs may rely upon the PMC's generic experts without making formal designations, they may designate additional generic experts not proffered by the PMC in accordance with the deadlines applicable to their DIDs. (Special Disc. Master Mem. No. 17.)

causation). Unlike the parties' generic experts, it is expected that the parties' case-specific experts will appear live to testify at trial.

2. State/Federal Coordination

It became evident in the beginning of this case that the extensive parallel state and federal diet drug litigation, involving many of the same defendants and the same plaintiffs in both state and federal fora, warranted particular emphasis on coordinated discovery. To this end, the court established a Discovery Committee consisting of attorneys involved in state and federal cases serving jointly in an effort to reduce discovery costs in cases where state and federal discovery could proceed simultaneously in the similar but parallel litigation. See Pretrial Order No. 38 (entered April 21, 1998). The court established a similar State/Federal Coordination Committee to address concerns other than discovery. (Pretrial Order No. 39.) State/federal coordination has taken on a more formal status in the State of California, where this transferee court and California's designated state judge for all California diet drug cases entered into a Joint Agreement that consolidated the state and federal committees for the administration of discovery, including deposition discovery. (Pretrial Order No. 467.)

Overall, there were serious efforts made by the parties, counsel and both state and federal courts to achieve meaningful

coordination. The coordination effort met with considerable, if not total, success.

3. Remaining Discovery

At the time a case is included in a Suggestion of Remand Order, all discovery is complete with two exceptions.

First, Pretrial Order No. 417 allows the parties to postpone the identification and filing of Federal Rule of Civil Procedure 26(a)(2) disclosures for expert witnesses offered to testify about economic issues relating to damages. See Pretrial Order No. 417 (entered Jan. 6, 1999). It is this court's opinion that plaintiffs can designate their economic experts within thirty (30) days after the order of remand is filed in the transferor court by the Panel.[8] Likewise, defendants can designate their economic experts within thirty (30) days after plaintiffs' designations, or at such time as directed to do so by the transferor court. The court postponed discovery for these economic experts because such testimony is usually not lengthy or overly complicated in personal injury cases. Furthermore, such witnesses are usually retained locally and often the parties can stipulate to much of the testimony.

[8] An Order of Remand by the Panel should not be confused with a Suggestion of Remand Order issued by this transferee court. Only the Panel can remand an action to the transferor court. 28 U.S.C. § 1407(a); R. P. J.P.M.L. 7.6(f)(i). The Panel considers remand of a transferred action based on, inter alia, a suggestion of remand by the transferee court. R. P. J.P.M.L. 7.6(c).

The second discovery item postponed for the transferor court is set forth in Special Discovery Master Memorandum No. 25, approved by the court and filed on October 22, 1999. At Paragraph IV, entitled "Deferral of deposition until after remand," the Special Discovery Master documented the transferee court's approval of the deferral of one deposition of a plaintiff's treating physician following remand. That order required any party who wished to defer a treating physician deposition until after remand to identify the specific treating physician in writing in the transferee court.

The parties should promptly identify these witnesses whose depositions have been postponed until after remand so that this minimal discovery can be completed.

4. Third Party Claims/Crossclaims

On July 20, 1999, the court issued Pretrial Order No. 807 requiring defendants to file Crossclaims and Third-Party Claims pursuant to the discovery schedule applicable to all parties.

5. Remand Questionnaires

In order to monitor the completeness of discovery in cases where all discovery deadlines are expired, the parties are required to complete and submit Remand Questionnaires to the Special Discovery Master for review. The Remand Questionnaire solicits information about remaining discovery and disputes between the parties, and is designed to do everything possible to finalize each parties' pretrial efforts prior to remand. This

effort by the Special Discovery Master shall not to be construed as a change or amendment to any Orders of the court or previous practices of the court or Special Discovery Master, other than minor individualized changes made from time to time as needed and recorded as such. Although the transferor courts may consider the contents of the Remand Questionnaires, this court has not accepted any reservations set forth by the parties therein that differ from this court's Orders and discovery deadlines.

C. Expert Testimony

In Pretrial Orders Nos. 1332, 1351 and 1685 the court issued rulings on Daubert challenges to certain witnesses to be proffered by plaintiffs in court proceedings following remand. For the reasons stated in the opinions accompanying those Orders, there is some flexibility left to the transferor court with regard to the admissibility of expert testimony, especially regarding the extent to which state law may bear upon a Daubert issue pertinent to a witness who appeared here and whose expert testimony has been challenged. As to each of those witnesses, the court recommends that the transferor court examine this court's rulings in Pretrial Orders Nos. 1332, 1351 and 1685 to understand the extent to which this court found the testimony to be admissible. The transferor court should then consider whether that issue should be revisited or whether this court's ruling should control.

D. Records on Remand

Rule 1.6(d)(5) of the Rules of the Judicial Panel on Multidistrict Litigation mandates that at the time of remand, the parties are to stipulate to this transferee court the portions of the record that are to be returned to the transferor court. In Pretrial Order No. 2, dated January 9, 1998, this court received permission from the Panel to allow virtually the entire file in any transferred case to remain in the transferor court. In that Order, this court directed that the transferor court clerk simply forward to this court a certified copy of the Complaint and a docket sheet. In many instances those were the only materials in the transferor court file. If there was additional material, it remained with the Clerk of the transferor court. In some instances, motions to remand to state court, to dismiss and the like had been filed in the transferor court but had not been ruled on by the time of transfer. Those motions were not sent to this transferee court. This court directed that any party seeking a ruling on such motions should provide this court with a copy of the documents pertaining to such motions. Where the parties did that, this court ruled upon those motions.

The parties identified in Suggestion of Remand Orders will designate which part of the record created here in the transferee court is to return to the transferor court on remand. That portion of the record can then be combined with the record that already exists in the transferor court, providing the transferor

court with the entire file necessary for the ultimate disposition of the case.

IV. NATIONWIDE CLASS ACTION SETTLEMENT WITH AHP

In or about April 1999, counsel for various state and federal plaintiffs and AHP began negotiating a nationwide settlement. Ultimately, the parties executed the Nationwide Class Action Settlement and presented it to the Court for approval and certification. On November 23, 1999, the court conditionally certified the Settlement Class. (Pretrial Order No. 997.) At that time, the court also established procedures for providing notice, conducting fairness hearing discovery and commencing the Fairness Hearing on May 1, 2000. The court entered Pretrial Order No. 1071, dated January 28, 2000, which convened a Special Discovery Court specifically designed to expedite discovery development and adjudicate disputes in anticipation of the Fairness Hearing. Document production was provided for in Pretrial Order No. 1111.

From May 2, 2000, through May 7, 2000, the court held the Fairness Hearing to consider the fairness, reasonableness and adequacy of the Settlement Agreement. Prior to the Fairness Hearing, the parties executed the First, Second and Third Amendments, which were considered by the court as part of the Settlement Agreement. The court received additional testimony at a Post-Fairness Hearing on June 1, 2000. Thereafter, the parties

agreed to the Fourth Amendment, requiring the court to hold a hearing on August 10, 2000 to consider its provisions.

The court approved the Nationwide Class Action Settlement on August 28, 2000 in Pretrial Order No. 1415. That Order is presently on appeal to the United States Court of Appeals for the Third Circuit.

A. Provisions of the Settlement Agreement

The American Home Products Class Settlement with class counsel (class counsel consisting of members from the PMC and class counsel from other jurisdictions who worked with the PMC to bring about this Settlement) provides for various benefits to eligible Class Members, ranging from slight damage entitling a claimant to a relatively modest recovery coupled with medical monitoring and minor medical treatment, to more serious claims of specifically defined valvular heart conditions that are evaluated on a scientifically established matrix. This formula could result in a recovery of "matrix compensation benefits" of several hundreds of thousands of dollars or more, depending on the precise condition and the time that it is identified.[9] The Settlement provides for an echo-cardiogram examination in some

[9] The Settlement created four matrices composed of cells formed by the intersection of five separate matrix levels of severity of valvular heart disease ("VHD") and 11 separate age intervals. Class members suffering from serious VHD are entitled to payments pursuant to the matrices. Generally, the amount of compensation decreases with age. The levels of VHD described on the matrices correspond with the medical consensus regarding the stages of serious VHD. (Pretrial Order No. 1415 at 49-50.)

instances. Some persons will receive an echo-cardiogram, and if neither specific symptoms nor positive findings are present they will have the benefit of knowing that they are not expected to experience any injury from the use of diet drugs. Recovery in such instances would be limited primarily to the services rendered. In other instances, the Settlement provides for consultation with a certified cardiologist of the Class Member's choice as well as other steps in the screening process to determine the extent to which diet drugs may have contributed to a Class Member's injury.

Medical monitoring procedures could allow some persons to be ongoing participants in the Settlement for as long as 14 years; others for a much shorter time. The Settlement Agreement provides for a means of security to assure the right of a participating Class Member to receive the benefit to which that person is found to be entitled at any time over the course of the screening period and beyond.

The Settlement Agreement provides for the establishment of a Trust to administer the Settlement. The Trust, located in Philadelphia, is currently in place and administering all features of the Settlement. The members of the Board of Trustees are from various parts of the country and various disciplines, including nationally recognized physicians with the highest levels of competence and experience in the field of cardiology and related topics within that discipline.

Eligible Class Members can avail themselves of Settlement benefits through one of two procedures:

First, Class Members can register for Settlement benefits by completing a blue registration form enclosed in the Settlement Packet that was distributed to them. Eligible Class Members who do so will receive benefits only upon final judicial approval of the Settlement. Further, Class Members who file blue forms and who are not then entitled to certain benefits under the Settlement retain the right to decide later, if certain conditions develop, to return to court to litigate their claims by utilizing the intermediate and back-end opt-out provisions of the Settlement, which are discussed below.

Second, Class Members can elect the Accelerated Implementation Option ("AIO") by completing a pink registration form enclosed in the Settlement Packet. The AIO is a private contract between a Class Member and AHP that allows a Class Member to receive all of the benefits to which he or she would be entitled under the Settlement Agreement regardless of whether or not the Settlement receives final judicial approval. In exchange, however, Class Members who elect the AIO are required to give up their potential opt-out rights and the right to object to the Settlement. The start date for receiving benefits pursuant to the AIO was August 28, 2000, the date on which this court approved the Settlement. See Pretrial Order No. 1415 at 74 (describing AIO).

It is estimated that 5,000,000 diet drug prescriptions were written over the relevant time period. While most persons only received one prescription, some received more. In any event, several hundred thousand potential claims are included in the Settlement, and as of the date of this Order some 280,000 persons have registered or are otherwise participating in the Settlement and are in various stages of having their claims verified and assessed.

B. Opt-Out Cases And Surviving Claims

The Settlement provides several opportunities for Class Members to opt-out. These opportunities range from the initial opt-out, which was to occur by March 30, 2000 under the terms of the Settlement Agreement conditionally approved by the court in November 1999, to that circumstance when the security that American Home Products has provided to fund the Settlement might fail, if that unexpectedly occurs. In the interim, certain Class Members who did not elect the AIO have an opportunity, if they learn that they have a specifically defined adverse heart condition, to assess whether they want to remain in the Settlement and follow its formula for an award; or withdraw from the Settlement by exercising their intermediate or back-end opt-out rights and either re-commence court proceedings or commence them for the first time. American Home Products agreed not to raise the statute of limitations or any similar bar to prevent

such an opt-out party from proceeding in court. In return, the opt-outs surrendered their rights to seek punitive damages.

It is estimated that there are several thousand plaintiffs who have exercised their initial opt-out rights. Their cases must be administered to conclusion in the transferor courts following remand.

Certain other diet drug plaintiffs are not included in the definition of the Class. Those cases must also be administered to their conclusion in the transferor courts following remand. One category of these cases consists of plaintiffs who claim to have contracted primary pulmonary hypertension ("PPH") as a result of the ingestion of diet drugs. This condition is acknowledged to be extremely serious and terminal, and persons who claim damages by having contracted it will have their cases administered here in the transferee court through pre-trial and then be remanded to the appropriate transferor court for trial. There are some other claims in a few cases that are similarly outside of the Class definition, and plaintiffs prosecuting those claims will follow the same course as those prosecuting PPH claims.

C. Class Members' Claims Against Other Defendants

Defendants that manufactured a separate product known as phentermine have been parties to this litigation from the outset. The principal phentermine defendants, numbering from 6 to 8, have not settled their cases on a global basis. They continue to

administer their defenses as plaintiffs continue to press claims against them. However, many plaintiffs and phentermine defendants have settled their cases on an individual basis. The court will ultimately designate these unsettled cases for remand to their respective transferor courts for final disposition.

V. CONCLUSION

Based on the foregoing description of events that have taken place in this MDL 1203, the court will order the initiation of an ongoing remand program consisting of a series of consecutively numbered Suggestion of Remand Orders, in which the court will suggest that the Judicial Panel on Multidistrict Litigation remand certain civil actions to their respective transferor courts. The court will also designate this Memorandum and Order, along with any supplements and/or amendments thereto, as the final pretrial Order in all cases that the court ultimately determines are ready for remand.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: DIET DRUGS (PHENTERMINE/ FENFLURAMINE/DEXFENFLURAMINE) PRODUCTS LIABILITY LITIGATION	: : : :	MDL DOCKET NO. 1203

PRETRIAL ORDER NO. 1962

AND NOW, TO WIT, this 9th day of May, 2001, IT IS ORDERED that:

1. An ongoing remand program is hereby initiated for cases transferred to this transferee court by the Judicial Panel on Multidistrict Litigation that have completed the pretrial process. The remand program shall consist of a series of consecutively numbered Suggestion of Remand Orders to be issued by this transferee court; and

2. This Pretrial Order No. 1962, along with any supplements and/or amendments thereto, shall serve as the final pretrial order of the transferee court in all cases for which the court will file a Suggestion of Remand with the Judicial Panel on Multidistrict Litigation.

SO ORDERED.

LOUIS C. BECHTLE, J.